

a1  
cont. transferring energy to or from an airway wall in the lungs to alter the airway wall in such a manner that the responsiveness of the airway is reduced.

46. (Amended) A method for treating conditions of the lungs by decreasing airway resistance to airflow comprising:

a2 transferring energy to or from an airway wall in the lungs to alter the airway wall in such a manner that a resistance to airflow of the airway is decreased.

### REMARKS

Support for the above amendments can be found throughout the specification. No new matter is added.

#### Drawings

Applicant acknowledges that formal drawings will be required when the application is allowed.

#### Rejections under 35 U.S.C. §102(e)

Claims 1-3, 5, 41, and 42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,979,456 to Magovern. The Office Action provides:

Magovern discloses a method and apparatus for reversibly modifying the shape of a selected portion of the body such as the pharynx, to produce a desired result, for example, to overcome obstructive sleep apnea by urging open the pharynx. Magovern's apparatus can include an energy source coupled to a preconfigured structure for providing activation energy, responsive to a predetermined stimulus, wherein said energy source can be an electrical, mechanical, thermal, electromagnetic, or a combination thereof. See Magovern, Col. 2 line 66 through Col. 3 line 1. Further, Magovern teaches that his apparatus can be used external